

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JENNIFER GERBER & JILL MCAULEY,

**Plaintiffs,**

V.

STE. MICHELLE WINE ESTATES, LLC,  
d/b/a CHATEAU STE. MICHELLE

**Defendant.**

Case No.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF UNDER  
THE AMERICANS WITH  
DISABILITIES ACT AND THE  
WASHINGTON LAW AGAINST  
DISCRIMINATION**

## I. INTRODUCTION

Plaintiffs Jennifer Gerber and Jill McAuley (collectively “Plaintiffs”) are individuals with disabilities. Each Ms. Gerber and Ms. McAuley require a personal care assistant (“PCA”) to attend and enjoy the activities and programs at Chateau Ste. Michelle, operated by Defendant Ste. Michelle Wine Estates, LLC (“SMWE”). The Plaintiffs cannot receive the benefits of SMWE’s facilities, programs, and services equal to the opportunities afforded to people without disabilities.

Plaintiffs need a PCA with them to benefit from these facilities. Plaintiff also needs a designated accessible entrance to access SMWE's facilities, programs, and services. Yet, SMWE

1 has a policy requiring them, as well as others with disabilities who need the designated  
2 accessible entrance, to limit the number of companions entering with them to only one  
3 individual. This policy violates Title III of the Americans with Disabilities Act of 1990, as  
4 amended, 42 U.S.C. §§ 12181-12189, and the implementing regulation, 28 C.F.R. Part 36. This  
5 policy also discriminates against Plaintiffs in violation of the Washington Law Against  
6 Discrimination (WLAD), Revised Code of Washington (RCW) § 49.60.

7 **II. JURISDICTION AND VENUE**

8 1. The jurisdiction of this Court is invoked under 28 U.S.C. § 1331; 28 U.S.C.

9 §§ 1343(a)(4); and 28 U.S.C. § 1367.

10 2. This Court has jurisdiction in this matter pursuant to 28 U.S.C. § 1331 because the

11 claims are being made pursuant to a federal statute, the Americans with Disabilities Act (ADA),

12 42 U.S.C. § 12181, and the corresponding federal regulations, 28 C.F.R. Part 36.

13 3. This Court has jurisdiction in this matter pursuant to 28 U.S.C. §§ 1343(a)(4) as this is

14 an action to recover damages or to secure equitable relief under the ADA and the corresponding

15 federal regulations.

16 4. This Court has supplemental jurisdiction per 28 U.S.C. § 1367, over claims brought

17 under WLAD, RCW 49.60, which claims arise out of the same nucleus of facts as the claims

18 under federal law.

19 5. This Court may grant equitable relief pursuant to 42 U.S.C. § 12188(a)(1) and (2), and

20 may award fees, expenses and costs to a prevailing party pursuant to 42 U.S.C. § 12205.

21 6. This Court may enjoin further violations, grant equitable relief, may award fees,

22 expenses and costs to a prevailing party or grant any other appropriate remedy pursuant to

23 RCW 49.60.030(2).

1       7. This Court has personal jurisdiction over the non-resident Defendant because they  
2 conduct continuous and systematic business in the Western District of Washington, and because  
3 this cause of action arises out of those activities and the impact of those activities on Plaintiff.

4       8.     Venue is appropriate in the Western District of Washington because the events occurred  
5 in this District, and each Defendant does business in this District. 28 U.S.C. § 1391.

### **III. PARTIES**

9. Plaintiff Jill McAuley is a Washington resident who resides in this district.

10. Ms. McAuley uses a power wheelchair.

9       11. Ms. McAuley requires accessible seating and the presence of a caregiver to attend and  
10      enjoy the activities and programs hosted by Defendant SMWE, including outdoor music festivals  
11      and live music performances.

12. Plaintiff Jennifer Gerber is a Washington resident who resides in this district.

13. Ms. Gerber uses a power wheelchair.

14        14. Ms. Gerber requires accessible seating and the presence of a caregiver to attend and  
15 enjoy the activities programs hosted by SMWE, including outdoor music festivals and live music  
16 performances.

15. SMWE is headquartered in Woodinville, WA.

16. SMWE is a venue that offers patrons the opportunity to consume wine and other  
17 beverages produced on-site.<sup>1</sup>

<sup>1</sup> See Wine Tasting, Chateau Ste. Michelle, <https://www.ste-michelle.com/visit-us/experiences/wine-tasting> (last visited July 3, 2025) (offering three daily opportunities for wine tasting experiences available to the public for a fee).

1       17. SMWE also hosts an annual summer concert series (“Concert Series”) that features  
 2 bands and performers advancing the mission of “provid[ing] a stage to some of the most  
 3 legendary artists in jazz, rock, blues, and contemporary music.”<sup>2</sup>

4       18. These “legendary artists” include The Beach Boys, Stevie Wonder, John Legend, and  
 5 James Taylor, among others who have performed at the Concert Series since 1984.<sup>3</sup>

6       19. In sum, SMWE offers products, services, and other privileges open to the public,  
 7 specifically wine and live music performances.

8       20. As an “establishment serving food or drink” that also functions as a “place of public  
 9 gathering,” SMWE is a property subject to all the requirements of the ADA, including  
 10 requirements that prohibit discrimination based on disability.

11       21. Additionally, SMWE is subject to the requirements under the Washington Law Against  
 12 Discrimination (WLAD); SMWE is a “place of public resort, accommodation, assemblage, or  
 13 amusement” by virtue of offering public amusement, entertainment . . . or recreation of any  
 14 kind” and selling “food and beverages” intended for consumption on the premises.<sup>4</sup>

15       22. Patrons with disabilities may purchase tickets to SMWE events, including their Concert  
 16 Series, but SMWE has a policy that limits the number of people who can accompany a patron  
 17 with a disability at the designated accessible entrance.<sup>5</sup>

18       23. The screenshot below shows SMWE’s entry policy for patrons with disabilities  
 19 (“Accessible Entry Policy”):<sup>6</sup>

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21       <sup>2</sup> [Summer Concerts, Chateau Ste. Michelle](https://www.ste-michelle.com/visit-us/summer-concerts), <https://www.ste-michelle.com/visit-us/summer-concerts> (last visited June 30, 2025).

22       <sup>3</sup> [Id.](#)

23       <sup>4</sup> WASH. REV. CODE § 49.60.040(2).

24       <sup>5</sup> [Id.](#)

25       <sup>6</sup> [Concert FAQs, Chateau Ste. Michelle](https://www.ste-michelle.com/visit-us/summer-concerts), <https://www.ste-michelle.com/visit-us/summer-concerts> (last visited July 3, 2025).

1 Ticket holders with a disability, along with one companion, can access  
 2 the Amphitheatre through the designated ADA line at either gate. Any  
 3 additional members of a party will enter with the general public.  
 4

5 24. 25. As shown in the above screenshot, each patron with a disability who uses the designated  
 6 accessible entrance at SMWE can bring only one individual into the entrance.  
 7

8 26. On information and belief, this policy does not apply to patrons who do not use the  
 9 designated accessible entrances.  
 10

11 27. Instead, other patrons who use the non-accessible entrances may bring in as many  
 12 companions as desired, unlike the Accessible Entry Policy as stated above.  
 13

#### **IV. FACTUAL ALLEGATIONS**

14 28. Ms. McAuley has a diagnosed disability of quadriplegia.  
 15

16 29. Ms. McAuley requires a power wheelchair for mobility.  
 17

18 30. Ms. McAuley's disability substantially limits one or more of her major life activities,  
 19 including, but not limited to, walking, eating, drinking, dressing, and transferring.<sup>7</sup>  
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21 31. Accordingly, Ms. McAuley is an individual protected from discrimination based on  
 22 disability under the ADA.<sup>8</sup>  
 23

24 32. Ms. McAuley regularly attends outdoor music concerts and festivals.  
 25

26 33. Ms. McAuley also requires using the designated accessible entrance to enter live music  
 27 venues and watch performances.  
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<sup>7</sup> Examples of “[m]ajor life activities” are defined by statute at 42 U.S.C. § 12102(2)(A), including the specific kinds of activities impacted by the Plaintiffs’ disabilities.

<sup>8</sup> In other words, having a disability that “substantially limits one or more major life activities of [an] individual” is, by itself, enough to deem an individual as having a disability under the ADA. 42 U.S.C. § 12102(2)(A).

1       34. On June 20, 2025, Ms. McAuley emailed SMWE Support to express interest in  
2 attending the Jon Batiste concert on September 10, 2025.

3       35. In that same email, Ms. McAuley inquired about SMWE's entry policy for the  
4 designated accessible entrance and whether she could bring her entire party through that  
5 entrance.

6       36. Ms. McAuley's request is shown in the screenshot below.

7                  **From:** Jill McAuley <[REDACTED]>  
8                  **Sent:** Friday, June 20, 2025 4:25 PM  
9                  **To:** Chateau Ste. Michelle Support <[REDACTED]>  
10                 **Subject:** ADA Entrance Accommodation Request

11                 You don't often get email from [REDACTED]  
12                 [Learn why this is important](#)  
13                 **Caution:** This email is from an External source. Verify the sender before  
14                 replying, opening attachments, or clicking links. Use Report Phish if  
15                 unsure.

16                 Good afternoon,

17                 I'm planning to see Jon Batiste on September 10th and wanted to clarify your ADA entry policy.  
18                 I noticed on your website that only one companion is allowed to accompany a guest with a  
19                 disability through the designated entrance, regardless of group size. I wanted to confirm if that  
20                 is correct.

21                 If so, I'd like to kindly request a reasonable accommodation that would allow my full party to  
22                 enter with me. This would ensure we can remain together and navigate the venue more  
23                 comfortably.

24                 I appreciate your time and look forward to your response.

25                 Warmly,  
26                 Jill McAuley

27 .

1       38. On June 25, Amber May, Guest & Employee Experience Manager for SMWE, replied  
2 to Ms. McAuley.

3       39. As seen in the screenshot below, Ms. May denied Ms. McAuley's request.

4                  From: **Amber May** [REDACTED]  
5                  Date: Wed, Jun 25, 2025 at 2:23 PM  
6                  Subject: Re: ADA Entrance Accommodation Request  
7                  To: [REDACTED]

8                  Hi Jill,

9                  Thank you for reaching out and for your interest in the upcoming Jon Batiste  
10                 performance on September 10th. We're glad you'll be joining us and appreciate you  
11                 taking the time to review our ADA policies in advance.

12                 You are correct that our current policy allows guests with a disability to enter  
13                 through the designated ADA entrance with one companion. Any additional members  
14                 of the party are asked to use the general public entrance, where they are welcome  
15                 to reunite with  
16                 your group inside the venue.

17                 We understand your request and the desire for your entire party to stay together  
18                 throughout the entry process. At this time, however, we are unable to grant  
19                 exceptions to this policy. It is in place to ensure that our ADA entrance remains  
20                 accessible and efficient  
21                 for all guests who need it, and we are not creating congestion at our accessible  
22                 points of entry. Are you able to provide additional details regarding the reasonable  
23                 accommodation that you are seeking upon entry into the venue?

24                 Thank you,

25  
26                 **Amber May**  
27                 Guest & Employee Experience Manager  
28                 Chateau Ste Michelle  
29       40. 14111 NE 145th St | Woodinville, WA | 98072

1       41. Based on this interaction, SMWE prohibits patrons with disabilities from having more  
2 than one companion through the designated accessible entrance.

3       42. Ms. Gerber has Ullrich Congenital Muscular Dystrophy.

4       43. Ms. Gerber requires a power wheelchair for mobility.

5       44. Ms. Gerber's disability substantially limits one or more major life activities, including,  
6 but not limited to, walking, eating, drinking, dressing, and transferring.

7       45. Accordingly, Ms. Gerber is an individual protected from discrimination based on  
8 disability under the ADA.

9       46. Ms. Gerber regularly attends outdoor music concerts and festivals.

10      47. Ms. Gerber also requires a designated accessible entrance to the seating area of live  
11 music venues.

12      48. On June 21, 2025, Ms. Gerber emailed SMWE to express interest in attending the  
13 Chicago concert at SWME on August 29, 2025.

14      49. In that same email, Ms. Gerber also requested permission to bring her entire group  
15 through the designated accessible entrance.

16      50. Ms. Gerber's email to SMWE is in the email below.

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1      **From:** Jennifer G ██████████  
2      **Sent:** Saturday, June 21, 2025 4:52 PM  
3      **To:** Chateau Ste. Michelle Support ██████████  
4      **Subject:** question

4      You don't often get email from ██████████ [Learn why this is important](#)

5      **Caution:** This email is from an External source. Verify the sender before replying,  
6      opening attachments, or clicking links. Use Report Phish if unsure.

7      Hello,

8      I have a disability and am considering going to the Chicago show on August 29th.  
9      I saw on your website that I would only be allowed one companion to enter the  
10     ADA entrance with me, regardless of the size of the group. Is that correct? If so, I  
11     would like to request a reasonable accommodation so my entire party can enter  
12     with me.

13     Please let me know if this is something you can accommodate.

14     Thank you,  
15     51.    Jennifer

16     52. On June 22, Carolyn from the Concierge Team at SMWE denied Ms. Gerber's request,  
17     as shown in the response below.

1 On Sunday, June 22, 2025 at 10:38:13 AM PDT, Chateau Ste. Michelle Support <[REDACTED]>

2 [REDACTED] wrote:

3 Hello Jennifer,

4 Thank you for contacting Chateau Ste Michelle.

5 The ADA line during the Summer Concert Series will only allow the ticket holder with a  
6 disability, along with one companion, can access the Amphitheatre through the  
designated ADA line at either gate.

7 Any additional members of a party will enter with the general public.

8 Thank you for your time.

9 Kind Regards,

10 Carolyn

11 ***Chateau Ste. Michelle Concierge Team***

12 ***800-267-6793***

13 53.

14 54. This email exchange between Ms. Gerber and SMWE is further proof that SMWE  
continues to restrict patrons with disabilities to only one companion when using the designated  
accessible entrance.

15 55. Thus, SMWE discriminates against patrons with disabilities in violation of the ADA,  
even after other patrons with disabilities have alleged discrimination based on disability against  
SMWE within the past decade.

16 56. For example, in 2015, Conrad Reynoldson, acting in his personal capacity as a plaintiff  
with a disability, sued SMWE, alleging that certain facilities were inaccessible (hereinafter  
“2015 SMWE lawsuit”).<sup>9</sup>

22  
23 <sup>9</sup> See generally Complaint for Damages, Reynoldson v. Ste. Michelle Wine Estates Ltd., No. 2:15-cv-02025 (W.D.  
Wash. Dec. 29, 2015), ECF No. 1.

1       57. The Complaint for Damages in the 2015 SMWE lawsuit alleged that SMWE violated  
 2 the ADA by failing to provide reasonable accommodations or remediate accessibility barriers,  
 3 including, but not limited to:

- 4           a. Failing to ensure that patrons with disabilities who used the early entry  
             5 accommodation could enter with more than one companion;<sup>10</sup>
- 6           b. Failing to fully install features required in all “designated” accessible parking  
             7 spaces;<sup>11</sup>
- 8           c. Failing to install parking signs at the designated accessible parking spaces that fully  
             9 comply with the height requirements;<sup>12</sup>
- 10          d. Failing to ensure that routes to seating and lawn areas open to the public are safe for  
             11 patrons who use wheelchairs;<sup>13</sup>
- 12          e. Failing to provide equal access and opportunity for individuals with disabilities to  
             13 purchase tickets for SMWE concert performances as do patrons without disabilities.<sup>14</sup>

14       58. However, the 2015 SMWE lawsuit did not address the specific Accessible Entry Policy  
 15 in question in this current action.

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 18       <sup>10</sup> See id. at 10 (stating that SMWE’s entry policy allowed for “one companion . . . to enter the Amphitheatre  
             approximately 15 minutes prior to the general public along with the individual with the disability”).

19       <sup>11</sup> See id. at 9 (“The temporary event parking area designated for disabled parking did not however have any  
             20 accessibility features in the parking spots and as a result Mr. Reynoldson was put in danger of being hit by a car  
             either pulling into the spot next to his van as he exited down the ramp or while attempting to travel from the parking  
             stall to the accessible route.”).

21       <sup>12</sup> See id. at 8, 10 (stating that the signs at the five permanent parking spaces, designated as the accessible spaces,  
             measured only forty-five inches high, when § 502.6 of 2010 ADA Standards for Accessible Design mandated a  
             minimum height of sixty inches for the sign at each designated accessible entrance).

22       <sup>13</sup> See id. at 11 (stating that the plaintiff’s power wheelchair “had great difficulty safely traversing the accessible  
             route,” considering the “crowded environment” of the venue).

23       <sup>14</sup> See id. at 12 (discussing the “systemic issues” of purchasing online tickets for SMWE events through  
             Ticketmaster that left potential concertgoers with disabilities with a “nearly impossible” task “to have equal access  
             to online ticket sales” because of SMWE’s system to obtain tickets for designated accessible seats).

1       59. Particularly, the 2015 SMWE lawsuit alleged that, on information and belief, SMWE's  
 2 Accessible Entry Policy in 2015 allowed patrons with disabilities to enter fifteen minutes early  
 3 via the same entrance for general admission for patrons who did not need the designated  
 4 accessible entrance.<sup>15</sup>

5       60. Yet, despite previous legal action to enforce the ADA, SMWE continued to  
 6 discriminate against patrons with disabilities after the 2015 SMWE Lawsuit.

7       61. In 2018, plaintiff Adrianna Killam, another individual with a disability and protected  
 8 from discrimination under the ADA, filed another lawsuit against SMWE, alleging multiple  
 9 accessibility barriers (hereinafter "2018 SMWE lawsuit").<sup>16</sup>

10      62. The 2018 SMWE lawsuit alleged that SMWE failed to remedy multiple kinds of  
 11 accessibility barriers, including, but not limited to:

- 12       a. Failing to provide any designated accessible parking in full compliance with the  
 13           applicable ADA Standards for Accessible Design ("Standards");<sup>17</sup>
- 14       b. Failing to provide safe and stable routes to seats and other amenities within the  
 15           concert venue;<sup>18</sup>
- 16       c. Failing to provide any fixed or permanent designated accessible seats next to  
 17           accessible routes;<sup>19</sup>

20  
 21      <sup>15</sup> *Id.* at 10.

22      <sup>16</sup> See generally Complaint for Damages and Injunctive Relief, Killam v. Ste. Michelle Wine Estates Ltd.,  
 23      No. 2:18-cv-00694 (W.D. Wash. May 14, 2018), ECF No. 1.

24      <sup>17</sup> See *id.* at 5 ("When she first arrived at the concert Ms. Killam was informed that no accessible parking was  
 25      available.")

26      <sup>18</sup> See *id.* at 6 (noting that the client "had to traverse a steep dirt path up a hill" to the "designated" seating area for  
 27      patrons with disabilities).

28      <sup>19</sup> See *id.* at 8 ("Both fixed and lawn amphitheater seating is not connected to compliant accessible routes.").

1           d. Failing to provide sections designated for patrons with disabilities to view the concert  
 2           stage and screen without obstructions, just like everyone else;<sup>20</sup>

3           e. Failing to provide accessible restrooms that fully comply with the dimensional  
 4           requirements of the Standards;<sup>21</sup>

5           f. Failing to provide service counters that fully comply with the dimensional  
 6           requirements of the Standards;<sup>22</sup> and

7           g. Failing to provide signage that direct patrons to a facility of SMWE.<sup>23</sup>

8       63. The 2018 SMWE lawsuit ended in a stipulated order of dismissal with prejudice.<sup>24</sup>

9       64. Yet, seven years and two lawsuits later, SMWE continues to discriminate against people  
 10 with disabilities.

11      65. On June 10, 2025, counsel for plaintiffs, Conrad Reynoldson of Washington Civil &  
 12 Disability Advocate (WACDA) wrote a letter to SMWE to report this policy as discriminatory  
 13 and requested a date and time to meet and discuss potential early resolution.

14      66. On June 18, 2025, counsel for SMWE, David West of Foster Garvey, PLLC, replied  
 15 with several threats against Mr. Reynoldson, including:

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18      <sup>20</sup> See *id.* at 7 (“Ms. Killam’s view was obstructed, and she could only see the upper video screen whenever people  
 19 would stand.”); *id.* at 9–10 (discussing how SMWE relegated patrons with disabilities, including the plaintiff, to  
 20 areas with “inferior sightlines” that amounted to “a greatly reduced enjoyment of the concert experience”). The  
 21 plaintiff asserted that her experiences of the plaintiff during her visit to SMWE were “reminiscent of the Jim Crow  
 22 South and being forced to the back of the bus.” *Id.* at 10.

21      <sup>21</sup> See generally Complaint for Damages and Injunctive Relief at 10, Killam v. Ste. Michelle Wine Estates Ltd.,  
 22 No. 2:18-cv-00694 (W.D. Wash. May 14, 2018), ECF No. 1.

22      <sup>22</sup> See *id.* at 12 (noting that “[r]etail service, sampling, and dining counter heights in tasting rooms” had heights that  
 23 were “very difficult” for individuals who used wheelchairs, because the heights for these counters measured  
 24 “consistently 45” above [the] finished floor to the top of [the] counter and [had no lowered section[s]]” at all).

23      <sup>23</sup> See *id.* at 13 (“The Manor House lacks directional signage to the accessible entrance on the backside of the house  
 24 and must be accessed by going through an employee only driveway and parking lot.”).

24      <sup>24</sup> Minute Order, Killam v. Ste. Michelle Wine Estates Ltd.,  
 25 No. 2:18-cv-00694 (W.D. Wash. Aug. 1, 2018), ECF No. 17.

- 1       a. Threat of countersuing on a Breach of Contract claim by filing this action, allegedly  
 2                   under the binding terms of the Settlement Agreement in the 2015 SMWE Lawsuit;  
 3                   and  
 4       b. The threat of disqualifying Mr. Reynoldson as counsel for plaintiffs on multiple  
 5                   grounds.

6       67. Mr. West also stated—incorrectly—in his response to the Plaintiffs' demand letter that  
 7                   the 2015 and 2018 lawsuits barred *any* further action at all regarding SMWE's entry policy,  
 8                   which changed between the 2018 SMWE lawsuit and today.

9       68. Plaintiff's demand letter to SMWE on June 10, 2025 is attached as Exhibit A.

10      69. Mr. West's demand letter response on June 18, 2025 is attached as Exhibit B.

11      70. Further, Mr. West expressed no willingness at all in his reply to meet to discuss this  
 12                   action or try to resolve this action quickly without litigation.

13      71. Considering Mr. West's refusal to meet with counsel for Ms. Gerber and Ms. McAuley  
 14                   to discuss the possibility of an early, cost-effective settlement over time-consuming, expensive  
 15                   litigation, the Plaintiffs have no choice but to file this action.

## 16                   V. CAUSES OF ACTION

### 17      A. **Count I - Violation of the Americans with Disabilities Act (ADA) 42 U.S.C.** 18                   **§§ 12181-12189 – Equal Opportunity**

19      72. The allegations of the preceding paragraphs are hereby re-alleged and incorporated by  
 20                   reference as if fully stated herein.

21      73. Ms. Gerber and Ms. McAuley have disabilities that substantially limit the major life  
 22                   activities of walking, eating, drinking, dressing, and transferring.<sup>25</sup>

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23      <sup>25</sup> 42 U.S.C. § 12102(2)(A).

1       74. Ms. Gerber and Ms. McAuley are qualified individuals with disabilities as defined in  
 2 the ADA and are thus protected from discrimination based on disability.<sup>26</sup>

3       75. SMWE is a “place of public accommodation” under Title III of the ADA, because  
 4 SMWE operates and/or controls a summer concert series at a “place of exhibition or  
 5 entertainment,” as well as a “place of public gathering” that also functions as an “establishment  
 6 serving food or drink” where its activities affect commerce.<sup>27</sup>

7       76. As a place of public accommodation under the ADA, SMWE is subject to the  
 8 obligations that Title III of the ADA imposes on places of public accommodation.<sup>28</sup>

9       77. One of these obligations is ensuring that no individual shall face discrimination “on the  
 10 basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges,  
 11 advantages, or accommodations of any place of public accommodation.”<sup>29</sup>

12       78. Specifically, the ADA prohibits “places of public accommodation” from denying  
 13 individuals with disabilities the opportunity to participate in or benefit from the goods, services,  
 14 privileges, advantages or accommodations offered to others,<sup>30</sup> or from offering benefits not equal  
 15 to those offered to others.<sup>31</sup>

16       79. Here, SMWE limits patrons with disabilities to only one companion through the  
 17 designated accessible entrance; by contrast, patrons without disabilities can enter SMWE without  
 18 any limits on the number of companions who accompany the individual entering SMWE  
 19 property.

20  
 21       <sup>26</sup> *Id.* § 12102 (1)(A)–(C).

22       <sup>27</sup> *Id.* § 12181(7)(C).

23       <sup>28</sup> *Id.* § 12181(7)(A)–(L).

24       <sup>29</sup> *Id.* § 12182(a).

Complaint for Declaratory and Injunctive  
 25       <sup>30</sup> *Id.* § 12182(b)(1)(A)(i).

Relief and Damages - 15  
 No:

26       <sup>31</sup> *Id.* § 12182(b)(1)(A)(ii).

1       80. Ms. Gerber and Ms. McAuley cannot enjoy the services, facilities, privileges,  
2 advantages, or accommodations of facilities hosted or organized by SMWE without PCAs and  
3 other companions with Plaintiffs.

4        81. Ms. Gerber and Ms. McAuley are unable to enjoy the services, facilities, privileges,  
5 advantages, or accommodations of SMWE on an equal basis with other guests.

6       82. Defendant violate 42 U.S.C. § 12182(b)(1)(A)(i)-(ii), and its implementing regulation at  
7 28 C.F.R. § 36.202, because SMWE still imposes an entry policy that discriminates adversely  
8 against individuals with disabilities.

**B. Count II - Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12181-12189 – Reasonable Modifications**

83. The allegations of the preceding paragraphs are hereby re-alleged and incorporated by reference as if fully stated herein.

84. Defendant discriminates against Ms. Gerber and Ms. McAuley , and other similarly situated guests with disabilities, based on disability in the full and equal enjoyment of its goods, services, facilities, privileges, advantages, and accommodations, in violation of Title III of the ADA, 42 U.S.C. § 12182, and its implementing regulation at 28 C.F.R. Part 36.

85. Generally, the ADA requires places of public accommodation to “make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities.”<sup>32</sup>

<sup>32</sup> Id. § 12182(b)(2)(A)(ii).

1       86. An exception applies when the place of public accommodation can show that making  
 2 these modifications will “fundamentally alter the nature of such goods, services, facilities,  
 3 privileges, advantages, or accommodations.”<sup>33</sup>

4       87. On information and belief, it is SMWE’s explicit policy or practice to allow only one  
 5 guest to accompany a patron with a disability when entering SMWE through its designated  
 6 accessible entrance and security line.

7       88. Here, as a reasonable modification, Ms. Gerber and Ms. McAuley request SMWE to  
 8 permit them, as patrons with disabilities who use the designated accessible entrance, to be  
 9 accompanied by as many companions as desired by the patron, not limited to just one  
 10 companion, just like everyone else who uses the non-designated accessible entrances.

11       89. The Defendant’s violations of Title III include, but are not limited to, failing to make  
 12 reasonable modifications in policies, practices, or procedures, when such modifications are  
 13 necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to  
 14 individuals with disabilities, in violation of 42 U.S.C. § 12182(b)(2)(A)(ii), and its implementing  
 15 regulation at 28 C.F.R. § 36.302.

16       90. Permitting Ms. Gerber and Ms. McAuley, as well as other similarly situated patrons  
 17 with disabilities, to enter SMWE with more than one accompanying guest would not  
 18 fundamentally alter the nature of the Defendant’s goods, services, facilities, privileges,  
 19 advantages, or accommodations and would not result in an undue burden, or significant difficulty  
 20 or expense, for Defendant.

21       91. Permitting Ms. Gerber and Ms. McAuley, as well as other similarly situated patrons  
 22 with disabilities, to watch SMWE concerts from the accessible risers while accompanied by

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23       <sup>33</sup> Id.

1 more than one guest, space permitting, would not fundamentally alter the nature of the  
 2 Defendant's goods, services, facilities, privileges, advantages, or accommodations and would not  
 3 result in an undue burden, or significant difficulty or expense, for Defendant.

4           **C. Count III - Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12181-12189 – Methods of Administration**

5           92. The allegations of the preceding paragraphs are hereby re-alleged and incorporated by  
 6 reference as if fully stated herein.

7           93. Defendant discriminate against Ms. Gerber and Ms. McAuley, as well as other similarly  
 8 situated patrons with disabilities, in utilizing standards, criteria or methods of administration that  
 9 effectively discriminate based on disability, in violation of Title III of the ADA, 42 U.S.C. §  
 10 12182(b)(1)(D) and its implementing regulation at 28 C.F.R. § 36.204.

11           **D. Count IV - Violation of the Washington Law Against Discrimination**

12           94. The allegations of the preceding paragraphs are hereby re-alleged and incorporated by  
 13 reference as if fully stated herein.

14           95. The Washington Law Against Discrimination (WLAD), RCW 49.60, defines “places of  
 15 public resort, accommodation, assemblage or amusement” as including “any place, licensed or  
 16 unlicensed, kept for gain, hire, or reward, or where charges are made for admission, … whether  
 17 conducted for the entertainment … or where food or beverages of any kind are sold for  
 18 consumption on the premises, or where public amusement, entertainment, sports, or recreation of  
 19 any kind is offered with or without charge …”<sup>34</sup>

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20           <sup>34</sup> WASH. REV. CODE. § 49.60.040(2) (2024).

1       96. Defendant controls and/or operates live music events across the State of Washington,  
 2 including shows at SMWE.

3       97. At SMWE events, including the annual summer concert series, SMWE charges the  
 4 public for admission into the concert viewing area to see the live performances on the stage.

5       98. Relevant regulations require places of public accommodation to provide “reasonable  
 6 accommodations” to make their services equally available to people with disabilities.<sup>35</sup>

7       99. “Reasonable accommodation” is “action, reasonably possible in the circumstances, to  
 8 make the regular services of a place of public accommodation accessible to persons who  
 9 otherwise could not use or fully enjoy the services because of the person's sensory, mental, or  
 10 physical disability,” and “accessible” is defined as “usable or understandable by a person with a  
 11 disability.”<sup>36</sup>

## VI. CONCLUSION

100. Ms. Gerber and Ms. McAuley are entitled to relief pursuant to the provisions of Title III  
 of the ADA. 42 U.S.C. §§ 12181-12189, and their implementing regulation, 28 C.F.R. Part 36,  
 and incorporating the remedies of 42 U.S.C. § 2000-a(3)(a).

101. Ms. Gerber and Ms. McAuley are entitled to relief pursuant to the provisions of the  
 WLAD, RCW 49.60.040, and the pertinent regulations under WAC 162-26-040 and WAC 162-  
 26-080.

## VII. PRAYER FOR RELIEF

102. Ms. Gerber and Ms. McAuley request relief from this court as follows:

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<sup>35</sup> WASH. ADMIN. CODE § 162-26-080 (2023).

<sup>36</sup> Id. § 162-26-040 (2023).

1       103. For a declaratory judgment stating that SMWE discriminated against each Plaintiff, and  
2 similarly situated patrons with disabilities, in violation of Title III of the ADA and in violation of  
3 the WLAD by restricting patrons with disabilities to be accompanied by only one companion  
4 when entering SMWE's live music venue through its designated accessible entrance and security  
5 line;

6       104. For a declaratory judgment stating that the ADA and WLAD requires SMWE to allow  
7 more than one guest to accompany a patron with a disability when entering SMWE music  
8 festivals through the designated accessible entrance and security line;

9       105. To enjoin SMWE, both in Washington state and nationally, its officers, agents, and  
10 employees, and all other persons in active concert or participation with each Defendant, from  
11 discriminating against patrons with disabilities by requiring them to pay a separate admission  
12 ticket for their PCA;

13       106. To enjoin SMWE, both in Washington state and nationally, its officers, agents, and  
14 employees, and all other persons in active concert or participation with SMWE, from  
15 discriminating against patrons with disabilities by restricting them to only one total guest  
16 accompanying them through the designated accessible entrance and security line;

17       107. Order SMWE, both in Washington state and nationally, to modify policies, practices, or  
18 procedures where necessary to afford individuals with disabilities a full and equal opportunity to  
19 participate in and benefit from each Defendant's services by allowing more than one guest to  
20 accompany a patron with a disability at the designated accessible entrance;

21       108. Order SMWE, both in Washington state and nationally, to develop and implement  
22 policies and procedures to provide the full and equal enjoyment of its facilities and services to

1 patrons with disabilities, including the admission, without an additional paid ticket, of PCAs who  
 2 are necessary to provide personal care services to those patrons with disabilities;

3       109. Order SMWE, both in Washington state and nationally, to design and implement  
 4 appropriate staff training programs to ensure that all personnel affiliated with the Defendant who  
 5 have contact with members of the public (whether employees or independent contractors) are  
 6 knowledgeable about the policies related to the provision of goods and services to patrons with  
 7 disabilities, including admission of PCAs who are necessary to provide personal care services to  
 8 those patrons with disabilities;

9       110. Award all costs of court, including reasonable attorneys' fees, pursuant to 42 U.S.C. §  
 10 12205 and RCW 49.60.030(2);

11       111. And order any such additional and further relief as the interests of justice may require  
 12 and is appropriate.

13  
 14 DATED: July 7, 2024

15  
 16 Presented by:

17       WASHINGTON CIVIL & DISABILITY ADVOCATE

18       /s/ Conrad Reynoldson  
 19       Conrad Reynoldson, WSBA #48187  
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22       CANTILEVER LAW

23  
 24 Complaint for Declaratory and Injunctive  
       Relief and Damages - 21  
       No:

24       WASHINGTON CIVIL & DISABILITY ADVOCATE  
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26       *Attorneys for Plaintiff*

Complaint for Declaratory and Injunctive  
Relief and Damages - 22  
No:

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